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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/047,115	01/14/2002	Mark W. Kroll	A02P1004	9041

7590 06/24/2004

PACESETTER, INC.  
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Sylmar, CA 91392-9221

EXAMINER

MANUEL, GEORGE C

ART UNIT PAPER NUMBER

3762

DATE MAILED: 06/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/047,115

Applicant(s)

KROLL, MARK W.

Examiner

George Manuel

Art Unit

3762

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-73 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15, 18, 21, 24, 27-63 and 65-69 is/are rejected.
- 7) ☒ Claim(s) 16, 17, 19, 20, 22, 23, 25, 26, 64 and 70-73 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 1/14/02.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

**DETAILED ACTION**

**DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

Claims 5, 6 and 41 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 5 and 6, the intracardiac electrogram signal lacks antecedent basis.

Regarding claim 41, the switch lacks antecedent basis.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

Claims 1-5, 7-14, 27-31, 33, 34, 40-46, 48, 49, 58-61, 63 and 65-68 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Collins '326.

Collins discloses detecting myocardial ischemia based on the ST-segment in the electrogram signal wherein, if the ST-segment is abnormal, the microprocessor may use the total duration of deviation persistence as an index of ischemia. Further, Atrial Sensing 25 and Ventricular Sensing 35 provide means for determining a sensor indicated heart rate and Atrial Pacing 24 and Ventricular Pacing 34 provide pacing at the sensor indicated heart rate.

Claims 1, 15, 18, 21, 24, 27-39, 44-46, 48-61, 63 and 65-69 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Alferness '768.

Alferness discloses ischemia data includes ST segment deviation data and MUX 64 provides a "switch" for connecting sensing leads 34 and 36.

Claims 1, 6, 27, 32, 44, 47, 58 and 62 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Stadler et al '493.

Stadler et al disclose in FIG. 1D is using defibrillation electrodes and the cardiodefibrillation housing for the electrode array. Further, Stadler et al are replete with discussion related to detecting myocardial ischemia based on a change in the electrogram, see for example, in step S236, each ischemia parameter is compared to an ST ischemia parameter threshold previously programmed into a register in step S235.

***Allowable Subject Matter***

Claims 16, 17, 19, 20, 22, 23, 25, 26, 64 and 70-73 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten

Art Unit: 3762

in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to George Manuel whose telephone number is (703) 308-2118.

  
George Manuel  
Primary Examiner  
Art Unit: 3762

6/21/04